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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/516,646	08/18/95	TUCK	D IECO-B8157

EXAMINER
THOMAS, J

B3M1/0731

DAVID W CARSTENS
HARRIS TUCKER & HARDIN
SUITE 2100
13355 NOEL ROAD
DALLAS TX 75240-6604

ART UNIT	PAPER NUMBER
2411	11

DATE MAILED: 07/31/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 8/18/95, 12/21/95, and 4/21/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 (three) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-15 are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 7, 11, and 14 are allowed.
- ☒ Claim(s) 1-6, 8-10, 12-13, and 15 are rejected.
- ☒ Claim(s) 2, 8, 12 and 15 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4 & 10
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

Claim Objections

1. Claims 2, 8, 12 and 15 are objected to because of the following informalities:

(i) The word "displayin" in claim 2, line should apparently be --displaying--.

(ii) Claim 8, line 1: the term "the least cost path" lacks proper antecedent basis. This can easily be corrected by making claim 8 dependent on claim 2 instead of on claim 1.

(iii) Claim 15, line 3 recites the use of a copyright symbol without reference to the material(s) copyrighted. See MPEP 608.01(v) and 37 CFR 1.71.

(iv) Claims 12 and 15 do not properly end with a period. See MPEP 608.01(m).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5-6, 9, 12-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the teachings of the prior art disclosed in the "Background of the Invention" section of the instant application in view of Salmon et al. (5,592,375).

(A) As per claims 1 and 3, it is well established in the prior art to trade electric energy between utility companies and other market participants "to meet shortfalls in capacity during unit outages, to achieve cost savings, or to increase revenues" (see pages 2-3 of the instant specification, entitled "Background of the Invention"). However, the prior art disclosed in the "Background of the Invention" section of the instant application fails to expressly teach a method for selling electric energy by connecting participants to a database display which displays a buyer's market and a seller's market and also displays the price for a quantity of electrical energy.

However, database systems directed to the selling and buying of products, goods, services, or other commodities are taught in the prior art, as evidenced by Salmon. Salmon teaches a computer-assisted system for interactively brokering goods or services between buyers and sellers, and comprises a multimedia database (200) having a Seller's Interface (300) and a Buyer's Interface (500) (Salmon; col. 3, lines 14-18). In particular, Salmon teaches:

(a) connecting a first participant to the multimedia database and display via a Seller's Interface (Salmon; col. 3, line 28 to col. 36), and thereby displaying a seller's market;

(b) connecting a second participant to the multimedia database and display via a Buyer's Interface (Salmon: col. 3, lines 37-48), and thereby displaying a buyer's market; and

(c) displaying a compensation or price or other capital requirements with respect to the product, goods, service, or commodity being traded (Salmon; col. 3, line 60 to col. 4, line 7; col. 14, lines 51-64; and figs. 41 and 8a).

One having ordinary skill in the art at the time of the invention would have found it obvious to conduct the well-established trading of electrical energy within the prior art system disclosed by Salmon with the motivation of automating the process of "interviewing" sellers about excess or available electrical energy for sale by providing an updatable database of consistent and relevant information, aiding in selection from among a plurality of available commodities, and allowing a buyer to make purchasing decisions more quickly (Salmon: col. 2, lines 25-55).

(B) As per claim 5, it is well known that the electrical energy that is traded by utility companies is either in the form of interruptible or noninterruptible electrical energy and the

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Examiner takes Official Notice of this knowledge within the prior art. As such, when motivated to implement Salmon's invention in the trading of electrical energy, the designer of the Products Profile database would have found it obvious to classify the electrical energy that is to be traded as either interruptible or noninterruptible (see col. 3, lines 59-60; col. 4, lines 41-49; and col. 6, lines 3-5 of Salmon), with the motivation of informing the buyer which type of electrical energy was available so as to properly match the buyers needs/profiles with available offers (Salmon; col. 3, lines 40-47).

(C) As per claim 6, it is well established within the prior art, that "[i]f a dispatcher finds what he considers to be a good deal, a trade is consummated" (page 2, lines 9-10 of the "Background of the Invention" of the instant specification). This well established routine, when implemented within the system disclosed by Salmon, would be the automated consummation of a purchasing or hiring decision (see col. 2, lines 15-22 & 52-55 and col. 18, lines 4-6 of Salmon).

(D) As per claim 9, Salmon's invention is directed to address issues of bias in hiring practices by not including a candidate's age, sex, religion, national origin, etc. within the Product Profile data stored in the database (Salmon; col. 13, lines 42-

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54). This, in effect, insures the anonymity of system users. It would have been obvious to the skilled artisan motivated to conduct the trading of energy within the automated system disclosed by Salmon to maintain a participant's identity anonymous with the motivation of eliminating bias or preferential treatment on the basis of age, sex, religion, national origin, etc. (Salmon; col. 13, lines 42-54).

(E) As per claims 12-13, it is well established in the prior art that, due to changes to changes in forecasts, calls are made to utility companies by dispatchers to determine prices and quantities of energy available for upcoming hours, even on a hourly basis (page 2, lines 6-10 of the "Background of the Invention" of the instant specification). Thus, the skilled artisan motivated to computerize the telephone interview/inquiry processes of the prior art would have found it obvious to establish available offers on a hourly basis as current hour offers and next hour offers within the database, in order to automate the interviewing process (Salmon; col. 3, lines 19-21) and in selecting offers that are current and/or nearly current, as such information is of vital importance to those in the energy trading field. In addition, the skilled artisan motivated to categorize offers on a hourly basis would likewise be motivated to display next hour offers during the current hour, with the

motivation of providing all new or recently added offers to the participants in a fast and convenient manner, since Salmon teaches the automatic notification of all newly entered or most recent product information (Salmon; col. 14, lines 35-41).

(F) As peer claim 15, it is well established in the prior art to trade electric energy between utility companies and other market participants "to meet shortfalls in capacity during unit outages, to achieve cost savings, or to increase revenues" (see pages 2-3 of the instant specification, entitled "Background of the Invention"). However, the prior art disclosed in the "Background of the Invention" section of the instant application fails to expressly teach a method for selling electric energy by connecting participants to a database display which displays a buyer's market and a seller's market and also displays the price for a quantity of electrical energy.

However, database systems directed to the selling and buying of products, goods, services, or other commodities are taught in the prior art, as evidenced by Salmon. Salmon teaches a computer-assisted system for interactively brokering goods or services between buyers and sellers, and comprises:

(a) a multimedia database (200) for storing information on products, goods, services, or commodities to be traded (Salmon; abstract and col. 3, lines 48-58); and

(b)-(c) a Seller's Interface (300) and a Buyer's Interface (500) to display and select (i.e., accept) offers (Salmon; abstract and col. 3, lines 14-18 & 28-47).

One having ordinary skill in the art at the time of the invention would have found it obvious to conduct the well-established trading of electrical energy within the prior art system disclosed by Salmon with the motivation of automating the process of "interviewing" sellers about excess or available electrical energy for sale by providing an updatable database of consistent and relevant information, aiding in selection from among a plurality of available commodities, and allowing a buyer to make purchasing decisions more quickly (Salmon: col. 2, lines 25-55).

4. Claims 2, 4, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Background of the Invention" section of the instant application and Salmon et al. (5,592,375) as applied to claim 1 above, and further in view of Fytche (DIALOG File 103, Accession No. 03423072: "Wheeling in Canada" from *Transactions of the Engineering and Operating Division of the Canadian Electrical Association*, published 1991).

(A) As per claims 2 and 8, it is well known to calculate the lowest cost path in the trading of electrical power between

utilities, as evidenced by Fytche. Fytche begins his report by stating, "[t]he quest for economic efficiency, or lowest cost, in the electricity supply industry is furthered by trading between high and low cost utilities, one aspect being transporting or wheeling power through the transmission system of a third party" (Fytche; first sentence of abstract). As such, one having ordinary skill in the art at the time of the invention and motivated to utilize the system disclosed by Salmon to conduct the well-established trading of electrical energy would likewise have been motivated to calculate the least cost path for transmitting energy through the transmission system of a third party and for including any "wheeling" charges that are applicable.

(B) As per claim 4, it is well known in that art that utility companies or other electrical energy sources/generators have transmission limits that are set on them by governmental authorities and/or have their own system limits which cannot be exceeded, and Examiner takes Official Notice of this knowledge within the prior art. As such, when motivated to implement Salmon's invention in the trading of electrical energy, the designer of the Products Profile database would have found it obvious to include transmission limits and/or the pressures and constraints that limit the wheeling of electrical energy (see

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col. 3, lines 54-60 and col. 4, lines 41-49 of Salmon; and the second sentence of the abstract of Fytche), with the motivation of informing the buyer how much electrical energy was available for transmission so as to properly match the buyers needs/profiles with available offers (Salmon; col. 3, lines 40-47). In addition, the skilled artisan would have been likewise motivated to verify that the buyer's required quantity of electrical energy was less than a seller's or wheeler's transmission limits, in order to properly execute the matched trade, especially since Salmon teaches the excluding of undesirable or unwanted products (Salmon; col. 12, lines 3-6).

(C) As per claim 10, Salmon teaches the use of a search session that enables the buyer to specify "must have" criteria, weighted "want to have" criteria, and unstructured word associations to filter product offers with the database (Salmon; col. 7, lines 47-59). When implementing the trading of electrical energy within Salmon's system, one having ordinary skill in the art would have found it obvious to filter out offers according to price ranges with the motivation of finding the best deal (page 2, lines 9-10 of the "Background of the Invention" of the instant specification) and of ensuring economic efficiency (Fytche; first sentence of abstract), and further because Salmon teaches displaying a compensation or price or other capital requirements

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with respect to the product, goods, service, or commodity being traded (Salmon; col. 3, line 60 to col. 4, line 7; col. 14, lines 51-64; and figs. 41 and 8a).

Allowable Subject Matter

5. Claims 7, 11, and 14 are allowable over the prior art of record.

6. The following is a statement of reasons for the indication of allowable subject matter:

7. The prior art of record fails to teach, either singly or in combination, the steps of curtailing of transactions between participants, displaying a reliability indicator (in the manner described in detail at pages 19-20 of the specification), and stopping the consummation of next hour transaction at a predetermined time during the current hour, as recited in dependent claims 7, 11, and 14, when considered together with all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied prior art of record teaches various computerized methods and systems for order management by market brokers (5,297,031); for credit management in an electronic brokerage

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system (5,375,055); for auction-based control system for energy resource management (5,394,324); and for economic dispatching of electrical power (5,621,654). The cited but not applied prior art of record include 7 DIALOG articles relating to the following topics: EDS signing a system development agreement with Continental Power Exchange to establish an electronic trading system; inquiry concerning alternative power pooling institutions under the Federal Power Act; automating the next-hour energy market; reengineering in the natural gas industry; power brokers marketing megawatts to benefit the poor; states testing retail wheeling; and competition facing electric utilities.

9. The prior art cited by Applicant in the IDS Statement 12/21/95 (Paper number 4) was carefully considered and appeared to be relevant to several of the dependent claims, but the Examiner did not apply them against the instant claims because Applicant did not provide the date of its publication or public knowledge, nor could the Examiner obtain this information.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 305-9051, (for formal communications intended for entry)

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Or:

(703) 305-5356 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Thomas, whose telephone number is (703) 305-9588. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 5:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiners' supervisor, Gail Hayes, can be reached at (703) 305-9711.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

jt
July 19, 1997


Joseph Thomas
Patent Examiner
Art Unit 2411